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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 **MONTE L. HANEY,**

Petitioner,

15
16 **v.**

17 **DERRAL G. ADAMS, Warden,**

Respondent.
18
19

C 07-4682 CRB (PR)

**ANSWER TO PETITION FOR
WRIT OF HABEAS CORPUS**

20 Respondent provides this answer to the order to show cause why the petition for writ
21 of habeas corpus should not be granted:

22 **I.**
23 **CUSTODY**

24 Petitioner Monte L. Haney is lawfully in the custody of Derral G. Adams, Warden of
25 Corcoran State Prison, as a result of a judgment of conviction in San Francisco County Superior
26 Court, case number 189793. A jury found petitioner guilty of aggravated mayhem, torture, assault
27 by means of force likely to produce great bodily injury, assault with a deadly weapon, corporal
28 injury on a cohabitant, and criminal threats, and found associated great bodily injury and deadly

1 weapon enhancements to be true. The trial court sentenced petitioner to life in prison with the
2 possibility of parole, plus seven years.

3 **II.**

4 **GENERAL AND SPECIFIC DENIALS**

5 Respondent denies that the state court rulings were based on an unreasonable
6 determination of fact or were contrary to or involved an unreasonable application of clearly
7 established United States Supreme Court precedent. Respondent specifically denies that: (1) the trial
8 court's refusal to instruct on aggravated assault as a lesser included offense of torture violated due
9 process; (2) the prosecutor exercised his peremptory challenges in a racially motivated manner; and
10 (3) that trial and appellate counsel rendered ineffective assistance of counsel.

11 **III.**

12 **PROCEDURAL DEFENSES**

13 Petitioner exhausted his claims in state court. The petition is timely within the meaning
14 of 28 U.S.C. § 2244.

15 **IV.**

16 **LODGED DOCUMENTS**

17 Respondent has lodged concurrently with this answer the following exhibits: (1) State
18 Court Clerk's Transcript (5 volumes); (2) State Court Reporter's Transcript (17 volumes); (3) State
19 Court Reporter's Transcript [Jury Selection] (2 volumes); (4) Challenged Juror Questionnaires; (5)
20 Opinion of California Court of Appeal; (6) Petition for Review filed in California Supreme Court;
21 (7) Order of California Supreme Court denying review; (8) Petition for Writ of Habeas Corpus filed
22 in California Supreme Court; and (9) Order of California Supreme Court denying petition.

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1 Dated: July 24, 2008

2 Respectfully submitted,

3 EDMUND G. BROWN JR.
4 Attorney General of the State of California

5 DANE R. GILLETTE
6 Chief Assistant Attorney General

7 GERALD A. ENGLER
8 Senior Assistant Attorney General

9 GREGORY A. OTT
10 Deputy Attorney General

11 /s/ Michele J. Swanson
12 MICHELE J. SWANSON
13 Deputy Attorney General
14 Attorneys for Respondent

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Haney v. Adams, Warden**

No.: **C 07-4682 CRB (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004.

On July 24, 2008, I served the attached

ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ANSWER TO
PETITION FOR WRIT OF HABEAS CORPUS**

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at San Francisco, California, addressed as follows:

Monte L. Haney
V-72062
Corcoran State Prison
4A-2R-08
P.O. Box 3476
Corcoran, CA 93212

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 24, 2008, at San Francisco, California.

S. Agustin
Declarant

/s/ S. Agustin
Signature